Opinion Co., 6 App. Div. 600, 39 N. Y. Supp. 957, as illustrative of several decisions denying the accuracy of defendant's statement that such an examination is never held to be necessary after issue joined, when it appears that the examination can be had at the trial, except where fraud is alleged, or some relation of trust confers a present right to know the facts to be elicited at the trial.

RELATIVE RIGHTS.

Money Lost by Agent—Recovery by Principal.—Thompson v. *Hynds et al.*, 49 Pac. 293 (Utah). Where a husband has been entrusted with a sum of money by his wife for the specific purpose of investing it for her in mining stocks, and has testified that he gambled it away to defendants; *held*, that he was acting in the capacity of her agent, and she as principal can recover it back, as the transaction gave defendant winners no title to the money. *Pierson* v. *Fuhrmann*, 27 Pac. 1015; *Mason* v. *Waite*, 17 Mass. 560; *Keener Quasi Cont.*, 183, 188, and others quoted.

Right of Action—Compelling the Discharge of a Servant.—Perkins v. *Pendleton*, 38 Atlantic Rep. 96 (Me.). A servant has a right of action against a third person who has unlawfully and by improper means procured his discharge from an employment and on account of which he has suffered injury. This is held to be so even though the master might have lawfully discharged the servant of his own accord. This case is somewhat different from *Lumley* v. *Gye*, 2 El. and Bl. 216, and *Bowen* v. *Hall*, 6 Q. B. Div. 333, and the early American and English decisions following them. It is held in these cases that the employer has a right of action against a third person who unlawfully procures a breach of contract of service. *Perkins* v. *Pendleton* holds there is no distinction and that the rule applies, both upon principle and authority, where the employer is induced to break his contract or where it is broken by the employee.

Support of Child—Liability of Father after Divorce.—Dolloff v. *Dolloff*, 38 Atl. Rep. 19 (N. H.). A divorce procured by the mother with alimony and custody of the child, does not release the father from the obligation to support the child. Alimony is not maintenance to the children but to the wife.

MISCELLANEOUS.

Power of Congress—Postal Regulations—Right of Citizen to Use Mails—Due Process of Law.—Hoover v. *McChesney*, 81 Fed. Rep. 472. Congress has the right to exclude from the mails such matter as it may deem injurious to the morals of the people; but it has never yet been held to have the power to delegate to an executive officer the power to determine the person or persons who shall be excluded from the right of sending and receiving mail by the postal system. For an

executive officer to exclude a citizen from the use of the mail, because, in that officer's opinion he at some previous time had violated the law by using the mail in an improper manner by sending unmailable matter, is an exercise of judicial and not executive authority on the part of such officer. The use of the mail is a right, and an order of the Postmaster General which finds complainant guilty of a violation of the postal laws, and prohibits to him the use of the postal service of the United States as far as the receiving of mail is concerned, is not due process of law, within the meaning of the Fifth Amendment to the Constitution. See especially *Ex parte Jackson*, 96 U. S. 727; *Association* v. *Zumstein*, 67 Fed. 1000; also *Dartmouth College Case*, 4 Wheat. 518; *Bank of Columbia* v. *Okely*, 4 Wheat, 235.

Collision—Liability of City for Negligence of its Fire Tug.—Thompson Nav. Co. v. *City of Chicago*, 79 Fed. Rep. 984. In a libel *in personam* against the city of Chicago, growing out of a collision between the city's fire tug and libelant's propeller, the circumstances were such that had the tug been owned by private parties, and engaged in private enterprise, there could be no doubt of their liability for the injury done. *Held*, that the city was liable *in personam*. In *U. S.* v. *The Malek Adhel*, 2 How. 209, Mr. Justice Story made it apparent that the liability of the owner, to the extent of his vessel, for injuries resulting from negligence or misconduct is not dependent upon any relation of master and servant, or principal and agent existing between him and crew, but rests solely upon the fact of ownership. So, although at common law the city is not liable for the negligent acts of the fire department, on the ground that the members of the fire department are not the servants of the city in its corporate capacity, yet it is liable in this case for the injury done by the vessel by virtue of the mere fact of ownership. Where such liability exists certain political bodies are sometimes exempted, but solely on the ground of public policy (*The Siren*, 7 Wall. 152), and this exemption stops short of city government. The decision in *The Fidelity*, 16 Blatchf. 569, Fed. Cas. No. 4,758, is followed in so far as it maintains that an action *in rem* cannot lie against the boat, lest its seizure disarm the city, even temporarily, of its equipment to put down fires; but is disapproved in its conclusion that the city is also not liable *in personam*.

Conspiracy—Funeral Directors' Association—Refusal to Sell Goods to Debtors.—Brewster v. *Miller et al.*, 41 S. W. Rep. 301 (Ky.). In an action brought to recover damages against a funeral directors' association for refusal of its members to sell goods to plaintiff on the ground that he was already in debt to one of its members, the fact that the association was a pool to regulate prices in violation of the statute (Ky. St. sec. 3915), would give plaintiff no right to action against it ("*Addison on Torts*," vol. 2, sec. 850). Nor is an article of the association directing its members not to sell to one who refuses to